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EXAMINER

WASYLCHAK, STEVEN R

ART UNIT PAPER NUMBER

3624

DATE MAILED: 09/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/882,992

Applicant(s)

DESANE, BILL

Examiner

Steven R. Wasylchak

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 8 and 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "substantially" is indefinite in any claim; correction is required.

### ***Claim Rejections - 35 USC § 103***

3. Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oppenheimer (US 5,983,206) and in view of Levine et al. (US 6,233,566).

#### **CLAIMS:**

1. A method for restructuring the debt of a debtor who has an interest in a distressed property comprising the steps of:

purchasing said distressed property from said debtor by satisfying a mortgage balance remaining on the property;/col 1, L26-35; col 3, L12-25; col 5, 21-35

Oppenheimer does not explicitly disclose satisfying said debtor's outstanding personal debt. However, Levine et al. teaches satisfying said debtor's outstanding personal debt. /col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of satisfying said debtor's outstanding personal debt for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO

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score.

reselling said property back to said debtor at an appraised present value of the home./

col 1, L26-35: resale to original owner under the owner's legal right of redemption.

2. A method for restructuring the debt of a debtor who has an interest in a distressed property comprising the steps of:

Oppenheimer does not explicitly disclose calculating a balance of the debtor's personal debt (B). However, Levine et al. teaches calculating a balance of the debtor's personal debt (B)/col 1, L49-55; col 5, L20-35.

It would have been obvious to one of ordinary skill in the art to use this limitation of calculating a balance of the debtor's personal debt (B) for the advantage of calculating the owner's debt/income ratio.

determining a mortgage balance remaining on the property ;/col 2, L13-22

determining the property's present appraised value (A);col 2, L7-22

calculating a first closing cost (C1) for purchasing the home from the debtor based upon the mortgage balance remaining on the property (M);/ col 2, L 13-22

calculating a second closing cost (C2) for reselling the property back to the debtor based upon the present appraised value of the property (A);/col 1, L26-35; col 2, L 13-22

calculating a down payment (1)) for reselling the property back to the debtor at the appraised value of the property (A); and/ col 1, L26-35;col 2, L 13-22

Oppenheimer discloses determining a total cost (Tc) for purchasing the property from the debtor, and reselling the property back to the debtor at a present appraised value of

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the property./col 2, L7-22. However, Oppenheimer does not disclose satisfying the debtor's personal debt. Levine discloses satisfying the debtor's personal debt / col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of satisfying said debtor's outstanding personal debt for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO score.

3. The method according to claim 2, wherein said total cost (Tc) is determined according to the equation  $Tc = (M + C1 + C2 + D)$ ./ col 1, L26-35; col 2, L 13-22; col 4, L41-51. Levine discloses B. / col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of satisfying said debtor's outstanding personal debt B for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO score.

4. The method according to claim 2, further comprising:  
comparing the total cost (Tc) to the present appraised value of the property (A) to determine if the present appraised value of the home (A) exceeds the total cost (Tc) by a preselected amount./ col 3, L13-25; col 3, L62 to col 4, L5

5. The method according to claim 4, further comprising.  
purchasing said property from said debtor./ col 1, L26-35; col 3, L12-25; col 5, 21-35

6. The method according to claim 5, further comprising:  
Oppenheimer teaches appraised value of the property (A) exceeds said total cost (Tc) by said and reselling said property back to amount, satisfying said debtor's balance said debtor at the present appraised value of the home (A)./ refer to claim 1

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Oppenheimer does not teach preselected amount of personal debt (B). Levine discloses the debtor's personal debt / col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of said debtor's preselected outstanding personal debt for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO score to a higher selected level.

7. The method according to claim 6, further comprising:

providing funds for the costs of said first closing cost (C1), second closing cost (C2), down payment (D) and satisfaction of balance remaining on the property (M)./ refer to claim 2

8. The method according to claim 4, further comprising:

if said appraised value of the property (A) does not exceed said total cost (TC) by said reselected mount determining a time period (x), where time period (x) is the time it will take said debtor to substantially eliminate said balance of said personal debt (B)/ refer to claim 1

9. Oppenheimer teaches time period is calculated according to the

equation  $x = (L)/I$ , wherein x is the time period, B is the balance of personal debt, L is an estimated yearly liability, and I is a yearly income./col 1, L 26-35,60-62. Oppenheimer does not disclose B. Levine discloses debtor's personal debt B/ col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of satisfying said debtor's outstanding personal debt for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO score.

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10. Neither Oppenheimer nor Levine teach said time period (x) is one year or less leasing said property to said debtor for a initial time period rent free and leasing said property to said debtor for a second time period after said initial time period at a selected rental rate.

Official notice is taken that this feature is old and well known in the leasing and real estate art as a sale leaseback to let the owner retain occupancy in a transitional sale period. It would have been obvious to one of ordinary skill in the art at the time of applicant's the premises while applying his right of redemption.

11. Oppenheimer does not disclose controlling said debtor's balances for a selected period to ensure a reduction in said debtor's balance of personal debt (B). However, Levine discloses this limitation/ col 1, L49-55; col 5, L20-35. It would have been obvious to one of ordinary skill in the art to use this limitation of satisfying said debtor's outstanding personal debt for the advantage of reducing the owner's debt/income ratio to upgrade the owner's FICO score.

12. The method according to claim 11, her comprising:  
reselling said property back to said debtor after said balance of personal debt (B) been substantially eliminated./ refer to claim 1

13. The method according to claim 12, further comprising:  
providing funds for the costs of said first closing cost (C1), second closing cost (C2), down payment (D) and satisfaction of balance remaining on the property (M)./ refer to claim 2

14. The method according to claim 8, further comprising:

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if said time period (x) is more than one year leasing said property to said debtor at a selected rental rate./ refer to claim 10

15. A method for restructuring the debt of a debtor who has an interest in a distressed property by a third party comprising the steps of:

purchase of said distressed property by said third party from said debtor by satisfying a mortgage balance remaining on the property;

satisfaction of said debtor's outstanding personal debt by said third party; and

resale of said property by said the party back to said debtor at an appraised present value

of the home./ all the above refer to claim 1

16. The method according to claim 15, further comprising:

said third party determining a total cost for purchasing said property from said debtor,

satisfying said debtor's outstanding personal debt and reselling said property back to

said debtor at the appraised present value of the home./ refer to claim 2

17. The method according to claim 15, wherein said property is immediately purchased and resold to said debtor by said third party./ refer to claim 1

18. The method according to claim 15, wherein said property is purchased by said third party, rented to said debtor for a selected period and then resold back to said debtor./refer to claim 10

19. A method for restructuring the debt of a debtor who has an interest in a distressed property by a third party comprising the steps of:

comprising a present appraised value of the property to a total costs for purchasing said



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property from said debtor, satisfying said debtor's outstanding personal debt and reselling the property to another party at the present appraised value of the home; if the present appraised value of the property exceeds the total costs by a preselected amount said third party purchases said property from said debtor./refer to claim 1

This action is **NON-FINAL**. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven R. Wasylchak whose telephone number is (703) 308-2848. The examiner can normally be reached on Monday-Thursday from 7:00 a.m. to 6:00 p.m. EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin, can be reached at (703) 308-1065. The fax number for Art Unit 3624 is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

Steven Wasylchak



9/5/04



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